

## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDGAR W. TUTTLE, ERIC BRAUN, THE  
BRAUN FAMILY TRUST, and WENDY  
MEG SIEGEL, on behalf of themselves and  
all others similarly situated,

No. C 10-03588 WHA

Plaintiffs,

v.

**ORDER TO SHOW CAUSE**

SKY BELL ASSET MANAGEMENT, LLC,  
*et al.*,

Defendants.

An order dated April 11, 2011, stated as to arguments made in motions to dismiss by the fund defendants and the Eden Rock defendants (emphasis omitted): “In four months from the date of this order, *i.e.*, on August 11, 2011, both sides may file supplemental submissions concerning the matters that are being held in abeyance by this order, namely personal jurisdiction and the execution process of the limited partnership agreements (the forum-selection issue)” (Dkt. No. 118). In other words, further briefing after jurisdictional and venue discovery was ordered as to arguments made by the fund defendants and the Eden Rock defendants, and that briefing was due yesterday, August 11.

A later order regarding a motion to dismiss by defendant Ernst & Young held, “Ernst & Young’s motion to dismiss . . . [is] held in abeyance . . . On August 11, 2011, both sides may file supplemental submissions concerning the matters that are being held in abeyance by this order (this will be alongside the further submissions concerning jurisdictional discovery as to the fund defendants)” (Dkt. No. 154).

1 Yesterday, there were several filings, all from plaintiffs' counsel. Plaintiffs' counsel  
2 filed a motion for appointment as interim class counsel (Dkt. No. 183), a memorandum  
3 regarding the issues held in abeyance from defendant Ernst & Young LLC's prior motion to  
4 dismiss (Dkt. No. 186), and a "memorandum regarding issues held in abeyance by the April 11,  
5 2011 order," which states that it is "specifically as to defendants Rothstein, Kass & Company,  
6 P.C. [] and McGladrey & Pullen, LLP" (Dkt. No. 189). In other words, this last submission  
7 does not address the fund defendants or the Eden Rock defendants.

8 Thus, the fund defendants and the Eden Rock defendants and Ernst & Young LLC failed  
9 to submit any further briefing on the issues held in abeyance by prior orders. Moreover,  
10 plaintiffs' counsel missed their deadline to file any further briefing regarding the jurisdiction  
11 and venue issues as to the fund defendants or Eden Rock defendants.

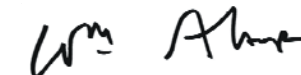
12 Plaintiffs are ordered to show cause why all of the fund defendants and Eden Rock  
13 defendants should not be dismissed for lack of personal jurisdiction and proper venue.

14 Apart from this, plaintiffs are also ordered to submit their memorandum of  
15 understanding with the fund defendants, so that it may be determined whether plaintiffs'  
16 counsel purported to act on behalf of the class or affect class rights.

17 Plaintiffs shall respond to this order to show cause by **NOON ON TUESDAY, AUGUST 16,**  
18 **2011.**

19  
20 **IT IS SO ORDERED.**

21  
22 Dated: August 12, 2011.



23 WILLIAM ALSUP  
24 UNITED STATES DISTRICT JUDGE  
25  
26  
27  
28